

BEFORE THE
Federal Communications Commission

WASHINGTON, D.C. 20554

In the Matter of

**The Development of Operational,
Technical and Spectrum Requirements
For Meeting Federal, State and Local
Public Safety Agency Communication
Requirements Through The Year 2010**

WT Docket No. 96-86

To: The Commission

**COMMENTS
OF THE
AMERICAN PETROLEUM INSTITUTE**

The American Petroleum Institute ("API"), by its attorneys and pursuant to Section 1.415 of the Rules and Regulations of the Federal Communications Commission ("Commission" or "FCC"), respectfully submits the following Comments in response to the Third Notice of Proposed Rule Making ("Third Notice") released in the above-captioned matter on September 29, 1998.^{1/} API is particularly concerned with the Commission's request for Comments on how it should license the 2.6 MHz of spectrum

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^{1/} 63 Fed. Reg. 58685 (November 2, 1998). The date for filing these Comments was extended to January 19, 1999 by Order of the Acting Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau on December 23, 1998 (DA 98-2588).

in the 700 MHz band that it designated in the First Report and Order ("Order") in this matter as interoperability spectrum.

I. PRELIMINARY STATEMENT

1. API is a national trade association representing approximately 350 companies involved in all phases of the petroleum and natural gas industries, including exploration, production, refining, marketing, and transportation of petroleum, petroleum products and natural gas. Among its many activities, API acts on behalf of its members as spokesperson before federal and state regulatory agencies. The API Telecommunications Committee is one of the standing committees of the organization's Information Systems Committee. The Telecommunications Committee evaluates and develops responses to state and federal proposals affecting telecommunications facilities used in the oil and gas industries.

2. Reliable two-way land mobile radio communications systems are essential tools in almost every phase of the petroleum and natural gas industries. These communications must be maintained during exploration activities, after oil and gas production is established for the management of individual wells, as well as entire fields and pipeline gathering systems, and for the safe and efficient operation of long-distance, crude, petroleum products and natural gas pipelines. These same types of reliable

communications are absolutely critical in petroleum refineries where the safety of personnel and adjacent populations, including the surrounding environment, demand clear channels of communication. Even in the marketing and distribution of these energy sources, mobile radio continues to play an important role in the transfer of natural gas at city gates, and the loading and delivery by rail, tank trucks and marine vessels of refined petroleum products to industrial, commercial and residential customers. Even though these systems are used along with the employment of other precautions to avoid emergency incidents, there are occasions that require emergency responses by these companies as well as by public safety agencies. Interoperable telecommunications systems can make a significant contribution to an effective response.

3. Oil and gas companies have a limited allocation of spectrum for oil spill containment and cleanup operations. This allocation includes two low band, four VHF, and a single pair of UHF channels. 47 C.F.R. § 2.106, n. NG 112. Although this allocation has provided the core of emergency communications response packages for many years and has been sufficient in some instances, it is woefully inadequate for a major incident. To make matters worse, the Commission has proposed to allocate one-half of the UHF oil spill containment channel pair to the Non-Voice, Non-Geostationary

Mobile Satellite Services ("Little LEOs").^{2/} API has repeatedly sought an adequate spectrum allocation to use in responding to these types of emergency situations.^{3/}

4. In Comments filed in response to the Second Notice of Proposed Rule Making, API urged the Commission to designate a minimum of twenty channel pairs from the new allocation for emergency, "mutual aid" use by both governmental entities and private parties with public safety responsibilities. API is very pleased with the decisions reflected in the Order to designate 2.6 MHz of spectrum for interoperable systems and provide eligibility for its licensing and use by non-governmental organizations ("NGOs") approved by an appropriate state or local governmental entity. (Order at ¶ 55).

5. The Commission has invited comments in the Third Notice on two specific areas. First, it has requested views on how to license the 8.8 MHz of spectrum in the 700 MHz band that has been designated as "reserve spectrum"; and, secondly, it has asked for comments on how it should license the 2.6 MHz of spectrum in the 700 MHz

^{2/} See, *Amendment of the Commission's Rules to Establish Rules and Policies Pertaining to the Second Processing Round of the Non-Voice, Non-Geostationary Mobile Satellite Service*, IB Docket No. 96-220, Notice of Proposed rule Making (Oct. 29, 1996); *Amendment of Part 2 of the Commission's Rules to Allocate the 455-456 MHz and 459-460 MHz Bands to the Mobile-Satellite Service*, ET Docket No. 97-214, Notice of Proposed Rule Making (Oct. 14, 1997).

^{3/} For example, see API Comments in Gen. Docket No. 90-314 at ¶¶ 62-81 (October 1, 1990).

band that has been set aside as interoperability spectrum. Inasmuch as many of the petroleum and natural gas companies that are members of API appear to be eligible NGOs, API is particularly interested in providing the Commission with its recommendations regarding licensing of the interoperability spectrum; and, accordingly, it is pleased to have this opportunity to submit the following comments.

II. COMMENTS

6. API is interested in how the Commission disposes of the 8.8 MHz spectrum that has been designated as a reserve allocation. It is unclear at this juncture how the interoperability spectrum may ultimately be licensed and actually employed. Accordingly, API strongly recommends that the Commission retain sufficient regulatory flexibility to permit designation of a portion of the reserve spectrum as a future allocation for interoperable system use.

7. There are two particular concerns that API has with respect to the manner in which the 2.6 MHz of interoperable spectrum is to be licensed. It is assumed that some of this spectrum will be used for purely government systems such as those dedicated to law enforcement. Notwithstanding the fact that such systems would be primarily employed by governmental agencies, API cautions that provision should be made for

access to such systems by NGOs either as licensees or parties authorized to share those systems.

8. API has repeatedly urged the Commission to designate a minimum of 20 channel pairs for nationwide use by mutual aid organizations in emergency situations such as oil spills. A portion of the interoperable spectrum should be dedicated for these types of communications needed for the coordination of both government and non-government emergency response resources. Many API members have emergency response equipment, including telecommunications facilities, assembled and stored in shipping containers and/or vehicles for expedited transport to an incident site, regardless of its geographic location. Accordingly, national standards should be developed for equipment specifications and licensing procedures so that these types of emergency response communication equipment packages can be used in a seamless environment with facilities contributed by other organizations, anywhere throughout the country, both onshore and offshore. While there may be room to utilize the regional planning process in the development of standards and procedures, API emphasizes that national criteria are absolutely essential to ensure unencumbered nationwide use of those channels dedicated for emergency response.

9. In recent years, NGOs with responsibility for safety and the environment have joined together in real life response situations, as well as in drill exercises under an

Incident Command System ("ICS") with GOs. The ICS process requires that multiple organizations blend into one for the duration of the event. Radio communications are handled by either the NGO or the GO loaning the other equipment, or by letting a common radio operator relay messages. There have also been some reported instances where either the NGO or the GO has allowed the other organization to operate equipment under the host's license. These arrangements have worked fairly well as an "after the oil is on the ground" plan. The weaknesses have been twofold. First, there has been a general shortage of interoperability channels. The second and more serious problem is not being able to be licensed and pre-programmed with the correct frequencies. Oil and gas companies have had to live with a situation where they conduct drills using the oil spill frequencies but, in real life, have to program in the GO's channel(s) while on the scene wasting valuable time! Having 20 or more channels at 700 MHz for interoperability that can be pre-authorized will be a valuable resource. However, these channels must also be available for emergency response drills or practices. API urges the Commission to include this important use in its final rules.

10. The Commission has requested comment on whether it should utilize the regional planning process for management of the 8.8 MHz of reserve spectrum. API views this issue as one to be addressed primarily by public safety organizations, but it strongly urges the Commission to facilitate national oversight of any regional processes so as to insure the adoption and implementation of national standards. API also

encourages the Commission to provide for participation in any such process by eligible NGOs and their industry organizations.

11. The Commission also sought comment in the Third Notice on the dedication of five VHF and four UHF channels to meet the interoperable requirements of those public safety agencies that will not be moving to the 700 MHz band. Access to such channels may be critical in some locations to facilitate participation by NGOs in an emergency response. Accordingly, API urges the Commission to include in rule amendments provisions permitting NGO use of any channels dedicated for interoperable operation in the bands below 512 MHz.

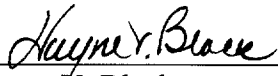
III. CONCLUSION

12. API recommends that the Commission retain control over a portion of the reserve spectrum so that it may be dedicated for future use, if needed, by interoperable systems. A portion of the 2.6 MHz of interoperable spectrum targeted in the Order should be designated for emergency response use by mutual aid organizations and other eligible entities. National criteria should be developed for these types of deployments, including use of the interoperable channels for training and drill exercises.

WHEREFORE, THE PREMISES CONSIDERED, the American Petroleum Institute respectfully urges the Federal Communications Commission to act in a manner fully consistent with the views expressed herein.

Respectfully submitted

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